

**REMARKS/ARGUMENTS**

Claims 12 and 19 have been amended, and claims 18, 21, and 30 have been canceled, herein. No new claims have been added. Following entry of the amendments, claims 12, 14 to 17, 19, 20, 24 to 28, and 32 will be pending in the application. Because the amendments remove issues for appeal, Applicants respectfully request entry thereof. MPEP § 714.13.

Applicants respectfully request reconsideration of the rejections of record in view of the foregoing amendments and the following remarks.

**Alleged Obviousness**

Claims 12, 14 to 21, 24 to 28, 30, and 32 remain rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over PCT Application No. WO 97/38707 (hereinafter “the Aebischer application”) in view of U.S. Patent No. 5,854,205 (hereinafter “the O'Reilly patent”) and U.S. Patent No. 5,459,054 (hereinafter “the Skjak-Braek patent”). Applicants respectfully traverse the rejection because the cited references, when considered alone or in combination, fail to teach or suggest all the limitations of the present claims.

Preliminarily, Applicants note that claim 12 has been amended to incorporate the limitations of claim 21. Specifically, claim 12 has been amended to recite that the producer cells are encapsulated in a bead or microbead and the alginate concentration within the bead or microbead increases from the center of the bead or the microbead to the outer rim. Claim 19 has been amended to depend from claim 12, and the remaining claims in the application also depend from claim 12.

To properly establish *prima facie* obviousness, the Patent Office must demonstrate that the cited prior art references teach or suggest all the limitations of the claims. *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970).

**DOCKET NO.: FMC-1213**  
**Application No.: 09/763,682**  
**Office Action Dated: October 6, 2003**

**PATENT**  
**REPLY FILED UNDER EXPEDITED**  
**PROCEDURE PURSUANT TO**  
**37 CFR § 1.116**

Assuming *arguendo* that those of ordinary skill in the art would have been motivated to combine the teachings of the Aebischer application, the O'Reilly patent, and the Skjak-Braek patent, which Applicants do not concede, the combination fails to teach or suggest every limitation of the present claims. The pending claims recite compositions comprising a producer cell that expresses a molecule that is an inhibitor of the growth of a CNS tumor, the cell being encapsulated in a matrix that comprises an immunoisolating alginate having a G content of above 15%, wherein the molecule is endostatin, angiostatin, thrombospondin, or prolactin *and the producer cell is encapsulated in a bead or microbead and the alginate concentration within the bead or microbead increases from the center of the bead or the microbead to the outer rim.* In contrast, the Aebischer application, the O'Reilly patent, and the Skjak-Braek patent, either alone or in combination, do not disclose, teach, or suggest such compositions. For example, the proposed combination does not teach or suggest producer cells that are encapsulated in a bead or microbead in which the concentration of alginate within the bead or microbead increases from the center of the bead or the microbead to the outer rim. The Office Action fails to demonstrate otherwise, and, thus, fails to establish *prima facie* obviousness. Accordingly, Applicants respectfully request withdrawal of the rejection.

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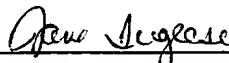
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**Conclusion**

Applicants believe that the foregoing constitutes a complete and full response to the Office Action of record. Accordingly, an early and favorable Action is respectfully requested.

Respectfully submitted,

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